

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 1

RICHLAND COUNTY

STATE OF WISCONSIN
17 W. Main St.
Madison, WI 53703,

Plaintiff,

v.

Case No. 10-CM-

TRAVIS C. FERGUSON
W/M DOB: 04/20/1982
33022 Fulton St.
Gotham, WI 53540,

Defendant.

CRIMINAL COMPLAINT AND SUMMONS

I, James A. Sielehr, being duly sworn, do state on information and belief,

CHARGE - ATTEMPTED THEFT BY FRAUD

That on or about September 23, 2009, in the Village of Gotham, Richland County, Wisconsin, the above-named defendant attempted to commit the crime of theft by fraud, by obtaining title to property, to wit: a lottery ticket, by intentionally deceiving the holder of the ticket with a representation the defendant knew was false, to wit: that the ticket was not a winning ticket, a representation made with the intent to defraud the holder of the lottery ticket by inducing the holder to part with the ticket, in violation of Wis. Stat. §§ 943.20(1)(d) and 939.32(1), a Class A Misdemeanor by operation of statute, and upon conviction the defendant may be sentenced to 9 months imprisonment, a \$10,000 fine or both, pursuant to Wis. Stat. §§ 943.20(1)(d), 939.32(1)(bm), and 939.51(1) and (3)(a).

FACTUAL BASIS

1. Complainant, James A. Sielehr, is a Special Agent (“S/A”) with the Wisconsin Department of Justice (“DOJ”), Division of Criminal Investigation (“DCI”), and has been a Special Agent for 15 years.
2. In 2009, Complainant was assigned to a state-wide compliance check coordinated by the Wisconsin Department of Revenue (“DOR”) in September, 2009, and assisted by DCI, concerning the Wisconsin Lottery (“Lottery”), which is a division of DOR. The compliance check was designed in part to ensure the integrity of the Lottery by testing compliance of retail vendors when winning Lottery tickets are presented to vendors for redemption. A vendor is a retail outlet, such as a gas station, convenience store, or grocery store, that sells Lottery tickets to the public. As part of the assignment, Complainant became aware of how certain Lottery games are structured and played, as described below.
3. Complainant knows that a Lottery scratch-off ticket is a ticket designed so that the ticket purchaser (the “player”) can scratch off portions of the ticket’s surface to reveal information concealed underneath. Different games have different rules, but in general, scratch off tickets are won by matching prescribed numbers of letters or numbers, according to the rules of the particular game. There are cash prizes awarded in varying amounts for winning tickets. Players may redeem winning tickets of \$599 or less at a Lottery vendor. However, winning tickets in amounts larger than \$599 must be redeemed at a Lottery Office.
4. Complainant has spoken with Jesse Benisch who is a Consumer protection Investigator 2 with the Lottery. According to Benisch, vendor employees presented with a winning

ticket in excess of \$599, are supposed to tell the player presenting the ticket that their winning ticket must be redeemed at a Lottery Office. There are 2 Lottery Offices, in Madison and Milwaukee, where winning Lottery tickets of \$600 or more can be redeemed.

5. Based upon training and experience gained through this investigation, Complainant knows that it is common for a player to present a Lottery ticket to a vendor and ask the vendor's employee to check that ticket to determine whether it is a winning ticket, or what the value of the ticket might be. The vendor employee usually does this by scanning the ticket in the Lottery terminal computer. Every Lottery ticket has a series of identifying numbers and bar codes printed on the ticket for security and verification purposes.
6. In September, 2009, all Lottery vendors in the state used one of two models of computer terminals supplied by the Lottery. One model was the Altura terminal. The other was known as the LVT terminal. When a ticket is scanned by either of these terminals, the terminal informs the employee of the status of the ticket being scanned, including the amount of the ticket, if the ticket is \$599 or less in value. If the ticket is a winning ticket of a value greater than \$599, information appears on the terminal screen stating either "Claim At Lottery," (Altura model terminals) or "Validation Error [the ticket number] Claim at Lottery" (LVT model terminals). The vendor employee then should inform the player that the ticket must be claimed or redeemed at a Lottery office and return the ticket to the player.
7. The compliance check in this case used the Super Quadrupler Crossword game, a scratch-off game the Lottery offered throughout the state of Wisconsin. In this game, players

scratched off the ticket's coating to reveal words embedded in a crossword puzzle printed on the ticket. The amount of the prize depended on the number of words revealed. The top prize for the Super Quadrupler Crossword game was \$50,000, which was awarded when ten words were revealed in the crossword puzzle. The second prize was \$5,000, which was awarded to players whose ticket revealed nine words in the crossword puzzle.

8. In general, the compliance check worked as follows. The DOR prepared 200 "dummy" winning tickets for the Super Quadrupler Crossword scratch-off game, for which the prize was valued at \$5,000. Each of these tickets looked like real Super Quadrupler Crossword game tickets, and each of the tickets had a unique identification number printed on it. When scanned by a Lottery vendor terminal, each of these tickets would show up as a winning ticket, and the vendor terminals would show the ticket would have to be claimed at a Lottery Office. The tickets were designed, however, so that when the dummy tickets were claimed at a Lottery Office, scanning by a Lottery Office terminal during the validation process would reveal that the tickets were not valid.
9. In September, 2009, teams of DOR and DCI Special Agents visited Lottery vendors around the state and presented the 200 dummy winning tickets to 200 different vendors, and asked an employee at each vendor whether the ticket presented was a winner. In 195 instances, the vendor's employee to whom the ticket was presented honestly informed the agents that the ticket presented was a winning ticket. In 5 instances, the vendor's employee informed the agents presenting the ticket that the ticket was not a winning ticket. The agents surreptitiously recorded these encounters by audio and video recordings.

10. On September 23, 2009, at approximately 12:38 p.m., Complainant and DOR Special Agent Henry Morel went to the DJ Kwik Stop Mobil Station, at Highway 14 & 60, Village of Gotham, Richland County, Wisconsin, which is a Lottery vendor. S/A Sielehr presented one of the dummy winning Super Quadrupler Crossword game tickets, identified as ticket number 930-101129-5-042, to a male clerk behind the counter. S/A Sielehr asked the clerk to check the ticket to see if it was a winner.
11. The clerk took the ticket to the Lottery terminal to scan, and informed S/A Sielehr that the ticket was not a winner. S/A Sielehr asked the clerk a second time if he was sure the ticket was not a winner, and the clerk answered a second time that the ticket was not a winner. The clerk kept the ticket and did not return it to S/A Sielehr. These events were recorded by audio and video means. The clerk was later identified as the defendant, Travis C. Ferguson.
12. Complainant has reviewed the report of DCI S/A Helen Wasmer, who spoke with Jesse Benisch, a citizen witness and DOR Lottery Investigator. Benisch reviewed computer records of the Lottery kept in the ordinary course of Lottery business. These records show that ticket number 930-101129-5-042 was scanned at approximately 12:38 p.m., on September 23, 2009, at a terminal located at the DJ Kwik Stop in Gotham; scanned a second time at approximately 4:32 p.m. on September 23, 2009, on the Lottery terminal at Eastside BP Gas Station in Richland Center; and scanned a third time at approximately 4:39 p.m., at the Eastside BP Gas Station in Richland Center.
13. S/A Sielehr and Morel contacted Travis C. Ferguson to discuss the circumstances of obtaining the ticket. On January 28, 2010, the agents interviewed a person who identified himself as Travis C. Ferguson. S/A Sielehr recognized this to be the same person who

had been behind the counter on September 23, 2009, who had scanned the ticket presented by S/A Sielehr and told him it was not a winning ticket.

14. On January 28, 2010, Complainant interviewed Travis C. Ferguson, who at first stated that he had intentionally kept the ticket because he knew it was a “sting” operation, and he was just being difficult with law enforcement. When the agents told him that they believed he was not being truthful, Travis C. Ferguson admitted that he had stolen the ticket in order to cash it because he needed to pay off some financial debts, including medical bills.
15. Ferguson admitted that he had intentionally told S/A Sielehr on September 23, 2009, that the ticket presented by Sielehr was not a winning ticket, when in fact, he knew full well that it was a winning ticket. Ferguson said that he took the ticket obtained from S/A Sielehr and placed it in the glove box of his car. Ferguson stated that he took the ticket to a different store, the Eastside BP Gas Station in Richland Center, in an effort to create an alibi for where he obtained the ticket. Ferguson stated that he purchased a similar Super Quadrupler Crossword Lottery ticket at the Eastside BP Gas Station. He took that ticket to his car and switched the ticket he had just purchased with the ticket he had taken from Sielehr earlier that day. He then returned to the store and presented the stolen ticket to the clerk.
16. The clerk, whom Ferguson knew as “Carrie,” scanned the ticket, which had in fact been obtained from S/A Sielehr, at approximately 4:42 p.m., and the terminal led Carrie to believe it was a winning ticket. Ferguson said he played along, and acted surprised, even though he already knew it was a winning ticket. Ferguson said he scanned the ticket again at about 4:39 p.m., to make it look like he was still really surprised and shocked. He said

he did all of this to establish an alibi for where and how he acquired a winning lottery ticket. Ferguson stated that he did not realize that every ticket is numbered and that Lottery officials can track this information

17. Ferguson stated that he would have made an effort to cash the ticket, but did not do so. He stated that he was told by David Grimes, the owner of the Arena Super Store, sometime in late September or early October, 2009, that one of his (Grimes') employees at the Arena Super Store had been caught stealing a Lottery ticket from an undercover police officer. As a result, Ferguson did not try to cash the stolen ticket and eventually threw it away. Complainant knows that he did, in fact, present a Lottery ticket at the Arena Super Store on September 23, 2009, and the clerk there had told him it was not a winning ticket and kept the ticket. Complainant interviewed the clerk from the Arena Super Store on September 29, 2009, and she admitted to lying to Complainant so she could keep the ticket and cash it herself.

Dated this 7th day of September, 2010.

James A. Sielehn, Special Agent
Complainant

Approved for filing:

Gary A. Freyberg

Gary A. Freyberg
Assistant Attorney General and Special Prosecutor for Richland County
State Bar # 1006559

Wisconsin Department of Justice
P.O. Box 7857
Madison, WI 53707-7857
608-266-7636

SUMMONS

STATE OF WISCONSIN,

Plaintiff

v.

TRAVIS C. FERGUSON,

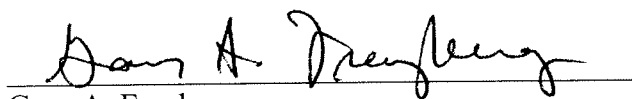
Defendant,

THE STATE OF WISCONSIN TO TRAVIS C. FERGUSON:

A complaint, a copy of which is attached, having been made before me accusing the defendant of committing the crime of Attempted Theft By Fraud, in violation of Wis. Stat. §§ 943.20(1)(d) and 939.32(1),

You, Travis C. Ferguson, are, therefore, summoned to appear before the Richland County Circuit Court at the Courthouse in the City of Richland Center, on November 3, 2010, at 9:00 o'clock a.m., and in case of your failure to appear, a warrant for your arrest may be issued.

Dated this 29 day of September, 2010.



Gary A. Freyberg
Assistant Attorney General and Special Prosecutor for Richland County
State Bar # 1006559